Senate Bill 289

By: Senators Moody of the 56th, Thomas of the 54th, Seay of the 34th and Orrock of the 36th

A BILL TO BE ENTITLED

AN ACT

To amend Article 7C of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to therapy services for children with disabilities, so as to add a definition; to revise provisions relating to services and treatment for categorically needy and medically fragile children; to revise provisions relating to requirements relating to administrative prior approval for services and appeals; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7C of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to therapy services for children with disabilities, is amended by revising Code Section 49-4-169.1, relating to definitions, as follows:

"49-4-169.1.

As used in this article, the term:

(1) 'Correct or ameliorate' means to improve or maintain a child's health in the best condition possible, compensate for a health problem, prevent it from worsening, prevent the development of additional health problems, or improve or maintain a child's overall health, even if treatment or services will not cure the recipient's overall health.

(2) 'Department' means the Department of Community Health.

(3) 'Discipline' means occupational therapy, speech therapy, or physical therapy.

~~(3)~~(4) 'EPSDT Program' means the federal Medicaid Early Periodic Screening, Diagnostic, and Treatment Program contained at 42 U.S.C.A. Sections 1396a and 1396d.

~~(4)~~(5) 'Medically necessary services' means services or treatments that are prescribed by a physician or other licensed practitioner, and which, pursuant to the EPSDT Program, diagnose or correct or ameliorate defects, physical and mental illnesses, and health conditions, whether or not such services are in the state plan.

~~(5)~~(6) 'Therapy services' means occupational therapy, speech therapy, physical therapy, or other services provided pursuant to the EPSDT Program to an eligible Medicaid beneficiary 21 years of age or younger and which are recommended as medically necessary by a physician."

SECTION 2.

Said article is further amended by revising Code Section 49-4-169.2, relating to services and treatment for categorically needy and medically fragile children, as follows:

"49-4-169.2.

(a) All persons who are 21 years of age or younger who are eligible for services under the EPSDT Program shall receive therapy services in accordance with the provisions of this article, whether they are categorically needy children enrolled in the low income Medicaid program or medically fragile children enrolled in the aged, blind, and disabled Medicaid program.

(b) The department and the care management organizations with which it contracts shall at all times enroll and maintain in their provider network a sufficient number of providers of therapy services of all three disciplines and of other pediatric services who are actively filing claims for services to meet the needs of children in the Medicaid EPSDT Program in all areas of the state.

(c) Approval of enrollment of providers by the care management organizations shall be effective as of the date of application."

SECTION 3.

Said article is further amended by revising Code Section 49-4-169.3, relating to requirements relating to administrative prior approval for services and appeals, as follows:

"49-4-169.3.

(a) The department shall develop and implement for itself, the care management organizations with which it ~~enters into~~ contracts, and its utilization review vendors consistent requirements, paperwork, and procedures for utilization review and prior approval of physical, occupational, or speech language pathologist services prescribed for children. Approval of services shall be based on the individual needs of the child for whom approval is sought by a provider, without limitations as to any diagnosis of such child. A decision by the department, a care management organization, or utilization review vendor to grant prior approval for therapy services shall be binding on another care management organization, utilization review vendor, or the department for the duration and frequency of the approval, so long as the request is by a provider of the same discipline; provided, further, that a provider of the same discipline, regardless of whether he or she submitted

the request for the approved therapy services, may deliver such services to the recipient according to the terms and conditions of the prior approval. Prior approval for therapy services shall be for a period of up to six months with a frequency and duration that is ~~as~~ consistent with the needs of the individual recipient.

(b) The department, its utilization review vendors, or the care management organizations with which it contracts shall give notice to affected Medicaid recipients, with a copy to the provider who submitted the prior approval request, of the following information in cases where prior approval is denied:

(1) The medical procedure or service for which such entity is refusing to grant prior approval or is reducing the frequency or duration of the therapy service being requested;

(2) Any additional information needed from the recipient's medical provider which could change the decision of such entity; and

(3) The specific reason used by the entity to determine that the procedure is not medically necessary to the Medicaid recipient, including facts pertinent to the individual case.

(c) Notwithstanding any other provision of law, the department, its utilization review vendors, or its care management organizations shall grant prior approval for requests for therapy services when the recipient is eligible for Medicaid services and the services prescribed are medically necessary. Requests for prior approval may not be denied until they have been reviewed by a therapist of the same discipline as that of the services being requested.

(d) In cases where prior approval is required under this article, the department, its utilization review vendors, or its care management organizations shall decide requests for therapy services ~~it shall be decided~~ with reasonable promptness, not to exceed 15 business days beginning on the day that the request for prior approval is originally sent to the department, its utilization review vendors, or its care management organizations. The request for prior approval ~~and~~ may not be denied or reduced unless and until it has been evaluated under the EPSDT Program.

(e) Prescriptions and prior approval for services shall be for general areas of treatment, treatment goals, or ranges of specific treatments or processing codes. The department, its utilization review vendors, and its care management organizations shall recognize, approve, and use the diagnostic coverage guidelines recognized or used by the Center for Medicare and Medicaid Services of the United States Department of Health and Human Services or any successor thereto. Clinical coverage criteria or guidelines, including the results of standardized tests, specific diagnoses, or restrictions such as location of service and prohibitions on multiple services on the same day or at the same time, shall not be the sole determinant used by the department, its utilization vendors, or its care management

organizations to limit either approval of therapy services under the EPSDT Program, the EPSDT standards themselves, or its definition of medically necessary ~~definition~~ in this article. Any such restrictions shall be waived under the EPSDT Program or this article if the prescribed services are medically necessary as defined in this article. Neither the department, its utilization review vendors, nor its care management organizations shall deny medically necessary services to a patient in the EPSDT Program due to the lack of results of a standardized test, either when such test is inappropriate due to the condition of the patient or when no such standardized test is generally available to evaluate the condition for which therapy services are requested.

(f) For purposes of this article and this Code section, a decision by the department, its utilization review vendors, or its care management organizations to reduce the duration or frequency of therapy services requested shall be treated as a denial of approval of services.

~~(f)~~(g) Nothing in this article shall be construed to prohibit the department, its utilization review vendors, or its care management organizations from performing utilization reviews of the diagnosis or treatment of a child receiving therapy services pursuant to the EPSDT Program, the amount, duration, or scope or the actual performance or delivery of such services by providers, so long as such utilization review is consistent with the provisions of this article and does not unreasonably deny or unreasonably delay the provision of medically necessary services to the recipient.

~~(g)~~(h) Nothing in this article shall be deemed to prohibit or restrict the department, its utilization review vendors, or its care management organizations from denying claims or prosecuting or pursuing beneficiaries or providers who submit false or fraudulent prescriptions, forms required to implement this article, or claims for services or whose eligibility as a beneficiary or a participating provider has been based on intentionally false information.″

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.